

Transparency Act – Executive Compensation & Sub-award Reporting Information

What is the Transparency Act?

- The Federal Funding Accountability and Transparency Act (FFATA or Transparency Act - P.L.109-282, as amended by section 6202(a) of P.L. 110-252) requires the Office of Management and Budget (OMB) to maintain a single, searchable website that contains information on all Federal spending awards. That site is at www.USAspending.gov .

What is required to be reported as part of the Transparency Act?

- FFATA prescribes specific pieces of information to be reported:
 1. The following data about sub-awards greater than \$25K
 - a. Name of entity receiving award
 - b. Amount of award
 - c. Funding agency
 - d. NAICS code for contracts / CFDA program number for grants
 - e. Program source
 - f. Award title descriptive of the purpose of the funding action
 - g. Location of the entity (including congressional district)
 - h. Place of performance (including congressional district)
 - i. Unique identifier of the entity and its parent; and
 - j. Total compensation and names of top five executives (same thresholds as for primes)
 2. The Total Compensation and Names of the top five executives if:
 - a. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25M annually; and
 - b. Compensation information is not already available through reporting to the SEC.
- Classified information is exempt from the prime and sub-award reporting requirement as are contracts with individuals.

What is a sub-award?

The Office of Management & Budget issued guidance identifying the requirement to report first-tier sub-awards on April 6, 2010 and that guidance may be found at the OMB Open Government site at <http://www.whitehouse.gov/omb/open> . That guidance defines a sub-award as generally referring to a monetary award made as a result of a Federal award to a grant recipient or contractor to a sub-recipient or sub-contractor respectively.

Why is sub-award information being collected?

- The Federal Funding Accountability and Transparency Act (Transparency Act) requires OMB to “ensure the existence and operation of a single searchable website” for Federal awards. The Transparency Act’s definition of “Federal awards” included not only prime awards for grants, cooperative agreements, loans, and contracts, but also included sub-grants and sub-contracts. OMB’s guidance issued on April 6, 2010 and August 27, 2010 further the implementation of the Transparency Act and enhance the transparency of Federal spending.

Federal agencies already report prime awardee information to USASpending.gov. Are there new reporting requirements for Federal agencies under FFATA?

- No. There are no new Federal agency reporting requirements, beyond those already required by the Office of Management and Budget (OMB) Memorandum M-09-19. However, Federal agencies are strongly encouraged to ensure the accuracy and data quality of the award information they report.

What Federal contracts and grants are subject to the FFATA sub-award and executive compensation reporting requirements?

- New contracts over \$20 million, effective immediately; new contracts with a prime contract value greater than \$550,000 as of October 1, 2010, and new contracts with prime contract value of \$25,000 or over as of March 1, 2011; and
- New grants of \$25,000 or more, as of October 1, 2010. The grants sub-award reporting functionality will be available via www.fsr.gov on October 29, 2010.
- Reporting of Sub-contracts of Federal contracts and sub-grants of Federal grants where these sub-contracts and sub-grants are \$25,000 and over.

Who will be required to report executive compensation and sub-award information associated with these Federal contracts and grants?

A prime grant awardee will be required to report its sub-grant(s) and a prime contract awardee will be required to report its sub-contract(s).

How will these prime awardees report this information?

- Prime awardees will report using the FFATA Sub-award Reporting System (FSRS). The tool will pre-populate, to the maximum extent possible, recipient information from existing Federal agency databases, such as the Central Contractor Registration System (CCR) to reduce the burden associated with this new FFATA reporting. All Federal contractors and prime grant recipients are required to register in CCR.

- User guides, FAQs, and an on-line demonstration are currently available at the FSRS website (www.fsrs.gov) for the contract sub-award reporting capability. Grant sub-award reporting user guides, FAQs, and an on-line demonstration will be incorporated into FSRS on October 29, 2010.
- OMB is planning to issue additional guidance to agencies to provide more instructions for financial assistance reporting requirements.

How much time does a prime awardee have to report executive compensation or sub-award information?

- The prime recipient will have until the end of the month plus one additional month after an award or sub-award is obligated to fulfill the reporting requirement. For example, if a sub-award was made on October 15, 2010, the prime recipient has until November 30, 2010 to report the sub-award information.

For ARRA-funded Federal contracts and/or grants covered under this FFATA sub-award reporting requirement, will reporting be required to both FederalReporting.gov and FSRS?

- For ARRA-funded Federal contracts that are subject to FFATA reporting, the prime recipient will be required to report the ARRA-funded Federal contracts to both FederalReporting.gov and FSRS if the contract so requires.
- For ARRA-funded Federal grants that are subject to FFATA reporting, the prime recipient will not be required to report the ARRA-funded Federal grants to both FederalReporting.gov and FSRS. ARRA-funded grants will continue to be reported to FederalReporting.gov only and non-ARRA funded grants will be reported to FSRS only.

When will FFATA be implemented?

- For Federal contracts, reporting requirements are already in place, and will be phased-in:
 - Through October 1, 2010 – new contracts awarded will require contractors to report executive compensation (to www.ccr.gov) and sub award information (to www.fsrs.gov) if the prime contract is greater than \$20M;
 - From October 1, 2010 – March 1, 2011 if the prime contract value is greater than \$550K;
 - From March 1, 2011 forward if the prime contract value is greater than or equal to \$25K.
- For Federal grants, as of October 1, 2010, all new grants of \$25,000 and over are subject to the FFATA sub-award reporting requirements. Prime awardees will be able to report in FSRS beginning October 29, 2010.

What guidance or other documents implement these FFATA reporting requirements?

- The Office of Management & Budget issued guidance related to Open Government and Transparency to include an April 6, 2010 memo requiring the reporting of first-tier sub-awards. The guidance may be found at the OMB Open Government site at <http://www.whitehouse.gov/omb/open> .
- The Office of Management & Budget issued guidance containing specific instructions on the sub-award reporting on August 27, 2010. The guidance may be found at the OMB Open Government site at <http://www.whitehouse.gov/omb/open>.
- On July 8, 2010, an interim FAR Rule with request for comments was published that contains information on the FFATA reporting requirements for Federal contracts.
- PRA information collections regarding sub-award and executive compensation reporting requirements for prime grant awardees and CCR registration for prime grant awardees were published on July 23, 2010.
- On September 14, 2010, the Office of Management and Budget issued standard award terms and conditions for Federal grants, to include the sub-award and executive compensation reporting, and Central Contractor Registry registration requirements.

Where will this FFATA data be displayed to the public?

- Data will be displayed to the public via www.USAspending.gov beginning in FY11.

How are you going to track agencies progress on improving data quality?

- OMB will work with agencies to establish a baseline of the quality of the information currently submitted to USAspending.gov. Once a baseline has been established, OMB will track agencies' improvements in the quality of its information through a dashboard that will be available to the public.

Do small businesses need to report this information?

- Yes. This reporting requirement applies to both large and small businesses. The exception is for entities with an annual gross income of less than \$300,000 per year, contracts with individuals, and classified contracts.

If my small business is exempt from the requirement to submit a subcontracting plan, will I need to report the FFATA information?

- Yes.

If I am a small business and I subcontract to a large business, will this reporting requirement still apply?

- Yes unless the \$300,000 gross income exception applies to your business.

How is this new reporting helpful to small businesses?

- The benefit of this reporting requirement for small businesses is the new market information available on contracting and grant opportunities with Federal prime contractors and grant awardees that are large businesses. This new transparency into Federal spending allows small businesses to identify subcontracting and sub-grant opportunities for those instances where the small business may not have had the capacity to compete for a prime contract but can now identify those prime contractors with subcontracting opportunities.